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## New State Approaches to Student Discipline

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National media have pushed school discipline into the spotlight, with particular focus on exclusionary practices such as out-of-school suspension and expulsion. Due in part to the spread of “zero-tolerance” policies, use of out-of-school suspension and expulsion has increased substantially over the past few decades. Zero tolerance is a term originating in law enforcement that refers to imposing automatic punishments for infractions.

When zero-tolerance policies were first being implemented in schools, they were intended to keep students safe by addressing student offenses related to weapons and drugs. The federal Gun-Free Schools Act of 1994 (GFSA), for example, mandated that school districts expel students for bringing weapons to school. School districts and states mirrored the GFSA’s zero-tolerance approach by mandating exclusionary discipline for other, nonviolent infractions. Although such policies were implemented with the intention to keep schools safe, research shows a lack of evidence of their efficacy at preventing misbehavior or keeping schools safer, as well as a correlation with lower graduation rates. There is also evidence that exclusionary discipline rates are disproportionately high among students of color, students with disabilities and English language learners.

In an effort to explore more effective disciplinary policies, many school districts and states across the country have been working to revise their zero-tolerance policies and reduce their use of exclusionary discipline. Two promising alternative strategies include the Positive Behavior Interventions and Supports (PBIS) framework, sometimes also called SWPBS, and use of restorative justice practices. Legislatures in a handful of states are even implementing specific statewide limits and prohibitions on the use of out-of-school suspension and expulsion.

### State Action

Nine states—Arkansas, California, Connecticut, Louisiana, Nevada, New Mexico, North Carolina, Rhode Island and Oregon—and the District of Columbia have passed legislation to limit the grades in which out-of-school suspension and expulsion can be used and prohibit school districts from using exclusionary discipline in response to certain nonviolent, non-drug-related infractions. Legislators in an additional three states—Georgia, Minnesota and Oklahoma—introduced comparable legislation limiting exclusionary discipline during their 2015 sessions.

Some states have focused on limiting exclusionary discipline based on students’ grade levels. Connecticut prohibits school districts from using out-of-school suspension and expulsion to discipline students in prekindergarten through grade two, with exceptions including infractions related to violence, weapons and drugs. The District of Columbia prohibits suspending or expelling prekindergarten students except for those who commit violent infractions.

### Did You Know?

- Students with disabilities are more than twice as likely to receive an out-of-school suspension (13 percent) than students without disabilities (6 percent).
- Black children represented 48 percent of prekindergarten students receiving more than one out-of-school suspension, despite representing only 18 percent of total prekindergarten enrollment.
- A 2013 study from Rutgers found classrooms with a high level of restorative practices had fewer disciplinary referrals for defiance and misconduct than those with a low level of such practices.

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In those exceptions, the District of Columbia allows suspensions to be no longer than three days for any particular incident. Oregon limits using out-of-school suspensions and expulsions for students in kindergarten through fifth grade; they may be used only to address violent infractions.

Other states have focused on limiting exclusionary discipline for certain types of nonviolent infractions. California students in kindergarten through grade three may not be suspended as a consequence to disruption or defiance, and all K-12 students are prohibited from being expelled for disruption or defiance. Louisiana prohibits students enrolled in prekindergarten through grade five from being suspended or expelled for uniform violations. Arkansas and Rhode Island prohibit using out-of-school suspension to address truancy, Oregon and North Carolina prohibit the use of expulsion to address truancy, and Nevada, New Mexico and the District of Columbia prohibit both suspending and expelling truant students.

Efforts to limit or prohibit out-of-school suspension and expulsion are just some of the latest steps these and other states have taken in the pursuit of equitable school discipline policies that more effectively protect students and staff from harm. The states mentioned above and the District of Columbia are also employing other strategies to prevent misbehavior and offer schools alternatives to exclusionary discipline. For example, Connecticut has implemented a Safe School Climate Plan aimed at addressing bullying and teen dating violence. The District of Columbia has a multi-tiered system of support in which consequences are dependent on the severity, or level, of the infraction. California statute offers several alternatives to exclusionary discipline, including parent conferences, counseling, restorative justice and community service. Louisiana requires classroom management training for teachers focusing on positive behavioral supports, conflict resolution, mediation and restorative practices.

## **Federal Action**

In a “Dear Colleague” letter, the U.S. Department of Education and the Department of Justice issued guidance to schools in January 2014. The guidance urged schools to change their discipline policies and included tools for identifying, avoiding and remedying discriminatory practices in school discipline. Recommendations included limiting the use of suspension and expulsion, implementing positive behavior interventions and supports, and collecting disaggregated data.

The U.S. Department of Health and Human Services, along with the U.S. Department of Education, issued a policy statement on expulsion and suspension policies in early childhood settings, including prekindergarten. The goal of the report was to raise awareness about exclusionary discipline practices in early childhood settings and provide recommendations for states and providers for intervening in order to prevent biased, exclusionary discipline practices.

## **NCSL Contact and Resources**

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NCSL, Education Bill Tracking Database

## **Additional Resources**

Compendium of School Discipline Laws and Regulations

U.S. Department of Education’s Technical Assistance Center on Positive Behavior Interventions and Supports

Improving School Climate: Evidence from Schools Implementing Restorative Practices